

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

CAROL A. WILSON, et al.,

Plaintiffs,

vs.

Civil Action 2:15-cv-2889  
Judge Frost  
Magistrate Judge King

GP WIND-DOWN COMPANY LLC,

Defendant.

REPORT AND RECOMMENDATION

This is an action for interest on untimely-paid fringe benefit contributions to employee benefits plans pursuant to a collective bargaining agreement. Plaintiffs assert claims under ERISA, 29 U.S.C. § 1132, and the LMRA, 29 U.S.C. § 185. Defendant GP Wind-Down Company LLC, a/k/a A2 Services LLC, d/b/a Geneva Pipeline LLC ("defendant"), was served with a summons and a copy of the *Complaint* on October 21, 2015, see ECF 4, but failed to plead or otherwise defend this action. Plaintiffs applied to the Clerk for entry of default, *Plaintiffs' Application for Entry of Default against Defendant*, ECF 6, and the Clerk entered defendant's default pursuant to Fed. R. Civ. P. 55(a) on December 3, 2015. *Entry of Default*, ECF 7. This matter is now before the Court on *Plaintiffs' Motion for Default Judgment*, ECF 8, seeking default judgment against the defendant.

Plaintiffs have established that defendant is a party to a collective bargaining agreement by which defendant agreed to pay contributions to the Ohio Operating Engineers employee benefit funds. *Affidavit in Support of Motion for Default Judgment by Clerk*, ¶ 2,

attached to *Plaintiffs' Motion for Default Judgment*, ECF 8-1.

Defendant failed to make timely contributions to the funds for the audit period June 1, 2014 to August 1, 2014, and - although the contributions have now been paid - defendant has accumulated interest charges in the amount of \$2,479.50. *Id.* at ¶ 6. Plaintiffs have also established that they have incurred attorney's fees in the amount of \$840.00, reflecting 4.20 hours compensated at the rate of \$200.00 per hour. *Affidavit of Counsel*, ¶ 5, attached to *Plaintiffs' Motion for Default Judgment*, ECF 8-3. See also *Invoice for Legal Services*, attached to *Plaintiffs' Motion for Default Judgment*, ECF 8-4.

Plaintiffs are entitled to interest and attorney fees on the untimely contributions. See 29 U.S.C. § 1132(g)(2); *Mich. Carpenters Council Health & Welfare Fund v. C.J. Rogers, Inc.*, 933 F.2d 376 (6th Cir. 1991).

It is therefore **RECOMMENDED** that *Plaintiffs' Motion for Default Judgment*, ECF 8, be **GRANTED**. It is **SPECIFICALLY RECOMMENDED** that the Clerk enter judgment against defendant GP Wind-Down Company LLC, a/k/a A2 Services LLC, d/b/a Geneva Pipeline LLC, and that plaintiffs have and recover from defendant the sum of Two Thousand Four Hundred Seventy-Nine Dollars and Fifty Cents (\$2,479.50), for interest, and a reasonable attorney's fee in the amount of Eight Hundred Forty Dollars (\$840.00).

If any party seeks review by the District Judge of this *Report and Recommendation*, that party may, within fourteen (14) days, file and serve on all parties objections to the *Report and Recommendation*, specifically designating this *Report and Recommendation*, and the part

thereof in question, as well as the basis for objection thereto. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). Response to objections must be filed within fourteen (14) days after being served with a copy thereof. Fed. R. Civ. P. 72(b).

The parties are specifically advised that failure to object to the *Report and Recommendation* will result in a waiver of the right to *de novo* review by the District Judge and of the right to appeal the decision of the District Court adopting the *Report and Recommendation*. See *Thomas v. Arn*, 474 U.S. 140 (1985); *Smith v. Detroit Fed'n of Teachers, Local 231 etc.*, 829 F.2d 1370 (6th Cir. 1987); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

December 8, 2015

s/Norah McCann King  
Norah M<sup>c</sup>Cann King  
United States Magistrate Judge